

# Commerce Commission Fibre Fixed Line Access Service Deregulation: Draft Assessment Framework Paper

2degrees' Response to  
Commerce Commission  
consultation

February 2024





## Introduction

2degrees welcomes the opportunity to submit in response to the Commerce Commission's fibre fixed line access service (FFLAS) deregulation review under section 210 of the Telecommunications Act 2001 (the Act).

2degrees is largely supportive of the economic framework the Commission is proposing to use to assess whether there are reasonable grounds for commencing a deregulation review, however consider it would be useful to more overtly include substantial market power (SMP) tests.

2degrees does not consider there are reasonable grounds to start a FFLAS deregulation review and do not consider there are reasonable grounds to consider that FFLAS services should no longer be regulated under Part 6 of the Act or, in the case of Chorus, subjected to price quality (PQ) regulation under Part 6 of the Act. For the avoidance of doubt, 2degrees considers the specification of the geographic area in which the service is supplied should not be reduced.

## Economic framework for assessing reasonable grounds

2degrees is largely supportive of the economic framework the Commission is proposing to assess whether there are reasonable grounds for commencing a deregulation review, but consider it useful for the framework to be more overt about FFLAS being a natural monopoly service, and relevant SMP tests.

The economic framework is to assist the Commission in determining whether the regulated provider continues to have SMP in FFLAS. Assessing SMP takes into account whether there are effective competitive constraints from alternative services as well as whether there is effective 'countervailing buyer power' when purchasing relevant services from the provider (in this case when purchasing from the relevant FFLAS provider).

## Service definitions and geographic area in which service is supplied

2degrees supports the FFLAS service definitions the Commission intends to apply and agree "that the geographic areas utilised for Regulation 6 are a good starting point for the purpose of describing a geographic area in which FFLAS is supplied for the reasonable grounds assessment."

## There hasn't been a change in circumstances that would justify deregulation

2degrees considers that FFLAS services must remain regulated under Part 6 of the Act.



We do not consider that there has been a change in circumstances such that continued regulation, or the regulation in its current form (as the case may be) is no longer necessary to best promote the long-term benefit of end-users in markets for FFLAS.

Regulation of access to FFLAS services is needed to promote competition / workable competition in telecommunications markets, including for broadband services.

The main relevant changes in the telecommunications market have been the phase out of copper (reducing choice for consumers) and the emergence of alternative technologies such as fixed wireless. We note:

- The Telecommunications Commissioner has been very clear wireless services are not a substitute for fibre services<sup>1</sup>;
- The current consultation suggests “any competitive impact of 5G fixed wireless appears to remain uncertain at this stage”; and
- Chorus has detailed its views on why alternative technologies are not a substitute for fibre (for example, refer to Chorus’ expenditure proposal (in particular, in relation to network expansion)).

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<sup>1</sup> Telecommunications Commissioner: “we certainly don’t want to hear that customers are being led to believe that fixed-wireless is a substitute for fibre because it is not.”  
<https://www.stuff.co.nz/business/124795218/telco-commissioner-tristan-gilbertson-has-two-big-tasks-and-a-paradox-to-fix>